

**BEST AVAILABLE COPY****RECEIVED  
CENTRAL FAX CENTER****FEB 12 2007****REMARKS****I. Petition Under 37 C.F.R. § 1.136(a)**

Pursuant to 37 C.F.R. § 1.136(a), applicant hereby petitions for a three-month extension of the shortened statutory period set for reply to the Office Action dated August 11, 2006. A USPTO credit card form in the amount of \$510.00 for payment of the fee set forth in 37 C.F.R. § 1.17(a)(3) is transmitted herewith.

**II. Introduction**

Claims 1-2 are cancelled without prejudice.

Claims 3-56 are pending in the application.

Claims 3, 5-10, 12, 14-19, 21-22 and 24-28 are rejected under 35 U.S.C. § 102(e) as being anticipated by Galensky, U.S. patent 6,845,398 (hereinafter "Galensky").

Claims 4, 11, 13, 20, 23 and 29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Goodman U.S. patent 5,694,455 (hereinafter "Goodman") in view of Galensky.

Consideration and allowance of this application in light of the following remarks is respectfully requested.

III. Applicant's Reply to the Rejection Under 35 U.S.C. § 102(e)

Claims 3, 5-10, 12, 14-19, 21-22 and 24-28 are rejected under 35 U.S.C. § 102(e) as being anticipated by Galensky. Applicant respectfully traverses this rejection.

Galensky is purportedly concerned with a system for streaming multimedia files to a wireless playback device (see Galensky, Abstract and Summary of Invention, FIGs. 1-2, etc.). According to Galensky, a user of the wireless device requests programming which is streamed to the device for playback. The playback device receives the streamed content and plays it essentially as the content is received, with some limited buffering (see Galensky, column 2, lines 21-28 and column 6, lines 2-10). After a user has requested certain programming for playback, and prior to transmission, the user billed for the use of that content. Only after the billing process is complete is the content sent to the user for playback (see Galensky, column 6, line 59 to column 7, line 10). Galensky does mention that content may be streamed to the playback device and stored for subsequent playback (see Galensky, column 7, lines 10-42). However, each time the user requests playback of this stored content, the system of Galensky requires that a communication channel be reopened to the server and the billing process repeated prior to allowing the

playback of the stored content (see Galensky, Column 7, lines 19-23 and 30-41).

Applicant's claimed invention, however, differs from Galensky in several patentable respects. For example, applicant's claimed invention specifies that "the system is configured to confirm a selected video file is properly received by the wireless telephone." The Examiner contends that this feature is shown in Galensky at column 6, line 59 to column 7, line 10 (Office Action section 4, pages 3 and 5). Applicant respectfully disagrees. As explained above, this portion of Galensky merely relates to billing a user for ordering content and has nothing to with confirming whether that content has been received (properly or otherwise). In fact, because the system of Galensky requires the billing process to be complete prior to transmission of the selected content, it cannot confirm that content has been properly received as specified in applicant's claims (or even transmitted to the user for that matter, see Galensky column 7, lines 5-10). Thus, applicant respectfully submits the present claims are allowable for at least this reason.

Moreover, the Examiner contends that Galensky teaches the feature of reviewing a selected video file prior to downloading. The Examiner contends that this feature is shown in Galensky at column 7, lines 25-42 (Office Action section 4, page

4). Applicant respectfully disagrees. As explained above, this portion of Galensky merely relates the reauthorization requirement prior to the replay of stored content and has nothing to do with review. Moreover, the content referred to in this section has already been downloaded to the device prior to reauthorization and therefore cannot possibly qualify as a content review prior to download. Accordingly, applicant respectfully submits that claims 6, 15 and 25 are further allowable over Galensky for at least this reason.

In addition, the Examiner contends that Galensky teaches providing the user with an option of editing a selected video file prior to programming it into a memory of the wireless telephone. The Examiner contends that this feature is shown column 3 line 52-63 (Office Action section 4, page 4). Applicant respectfully disagrees. This portion of Galensky merely relates the accessing and streaming of content which is decompressed and played by the playback device. This has nothing to do with the editing or modification of the content by the user as specified in applicant's claims. Accordingly, applicant respectfully submits that claims 7 and 16 are further allowable over Galensky for at least this reason.

Other patentable features include the use of a wireless phone rather than the limited playback device shown in FIG. 2,

failure to show search features and other claimed distinctions, etc. Accordingly, based on this and the discussion above, applicant respectfully requests that the rejections under 35 U.S.C. § 102(e) be withdrawn.

IV. Applicant's Reply to the Rejection Under 35 U.S.C. § 103(a)

Claims 4, 11, 13, 20, 23 and 29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over by Galensky in view of Goodman<sup>1</sup>. Applicant respectfully submits that this rejection is moot in view of the discussion above and that the claims are allowable over Galensky and Goodman for at least the same reasons they are allowable over Galensky.

However, other patentable distinctions include the failure of Goodman to show or suggest a search feature for search a database of video files using title and/or description information. The Examiner contends Goodman teaches this feature and cites to Goodman, column 1, lines 39-51 (Office Action page 6). However, applicant respectfully points out that this section of Goodman deals with tape-based VCR and ACR technology which merely allows a user to fast-forward, rewind or otherwise manually navigate through tapes with video content. Such primitive analog

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<sup>1</sup> Page 6 of the Office Action includes a rejection based on an Abraham reference. However, the patent number given is that of the Goodman reference. The Abraham reference (indicated as U.S. patent 6,829,618 on Notice of References cited) is completely unrelated to the technology at issue (i.e., methods for optimal layout of a DVD disk and nothing to do whatsoever with telephones or content distribution), applicant assumes the Examiner may have meant to cite to Goodman, so both are discussed herein.

tape navigation features has absolutely nothing to do with searching databases or providing search results which are found and reported based on title or description information as specified in applicant's claims.

In addition, Abraham, U.S. Patent 6,629,618 is related to the optimal layout of data on a DVD disk and is thus not concerned with the electronic distribution of video content to wireless devices, and is therefore a non-analogous art and thus cannot be combined with Galensky. Goodman also fails to mention a search feature anywhere (including at column 7, lines 35-52).

Moreover, applicant submits it is not obvious to combine the references as the Examiner proposes. As mentioned above, the purpose of Galensky is to stream content to a dumb playback device with limited capacity with constant reauthorization procedures whereas Goodman does not use streaming technology at all but rather is concerned with non-streaming conventional telephone technology. These two disparate technologies have very different operational goals and thus teach away from one another discouraging the proposed combination. Furthermore, substantial modification of streaming, multiple authorization based technology of Galensky would be required to accommodate Goodman, further discouraging such a combination. No teaching is provided by either reference describing how to accomplish such modifications

or is there any suggestion or motivation provided within the references themselves that such a combination would be desirable. As mentioned above, Abraham is completely unrelated to the other two references, and therefore cannot be combined with Galensky or Goodman for at least the same reasons.

In addition, even if such a combination were made, it would still not produce applicant's claimed invention (i.e., the combination would merely produce a device suffering from all the shortcomings of Galensky and Goodman as pointed out above).

Accordingly, based on the above, applicant respectfully requests that the rejections under 35 U.S.C. § 103(a) be withdrawn.

V. Claims 30-56

Claims 30-56 were submitted in a Preliminary Amendment filed prior to the mailing date of this Office Action. No mention is made of these claims in the present Office Action. Applicant submits these claims are allowable over the prior art of record in this case, and thus, respectfully requests allowance of claims these claims.

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VI. Conclusion

For at least the above reasons, claims 3-56 are patentable over the references of record. Accordingly, applicant respectfully requests that the Examiner withdraw the rejections and allow the pending claims. To expedite prosecution of this application to allowance, the examiner is invited to call the applicant's undersigned representative to discuss any issues relating to this application.

Respectfully submitted,

Dated: 2/11/07

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